

Wilderness Amendment (Private Property Rights) Bill 2000

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Wilderness Act 1987* in relation to wilderness proposals in order to preserve private property rights.

Under the Act as currently in force, when a person submits a proposal to the Director-General of National Parks and Wildlife that an area of land be identified as wilderness, declared a wilderness area or added to an existing wilderness area, the Director-General is obliged to notify only the owner of the land of any proposal received in relation to the land. The Director-General must consider the proposal and advise the Minister on the proposal within two years. The amendments proposed by the Bill will modify the procedure the Director-General must follow when considering whether land should be identified as wilderness (whether in response to a proposal or by way of an investigation instigated by the Director-General). Before the Director-General considers or assesses a proposal, the consent of any owner, lessee, mortgagee or chargee of the land, and of any person having the benefit of a positive covenant over it, will be required. These consents will lapse when two years have expired, so that if the land has not by then been identified as wilderness, new consents will be required.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent, except for section 4 and Schedule 2, which commence on 1 January 2001.

Clause 3 is a formal provision giving effect to the amendments to the *Wilderness Act 1987* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Wilderness Act 1987* set out in Schedule 2.

Schedule 1 Amendments

Consents

Schedule 1 [1] inserts a definition of *appropriate self-reliant recreation* into section 2 for the purposes of the Act. The expression is used in sections 6 (1) (c) and 9 (c) of the Act.

Schedule 1 [2], [3], [5] and [6] make amendments that require the consent of the owner, lessee, mortgagee or chargee of the land, and of any person having the benefit of a positive covenant over it, before the Director-General of National Parks and Wildlife:

- (a) considers a proposal for the identification of land as wilderness, for the declaration of land as a wilderness area or for the addition of land to existing wilderness areas, or
- (b) undertakes investigation of land to ascertain its suitability for those purposes, or
- (c) identifies an area of land as wilderness.

In addition, proposed section 5 (5) (inserted by Schedule 1 [3]) requires the Director-General to send to a party consenting to investigation of land, or a proposal in relation to land, a notice setting out the rights of that party to withhold consent to identification of the land as wilderness.

Time limits

Schedule 1 [4] amends the Act to limit the time within which land, or a proposal in relation to land, can be investigated. The time limit starts when the Director-General first receives a proposal, or obtains the necessary consent to investigate the land for its suitability, and ends two years later. If a proposal had not been finally dealt with by the Director-General within the two-year period, the consent will again need to be obtained before further consideration of the proposal or investigation of the land can continue.

Transitional provisions

Schedule 1 [7] inserts into the Act a Schedule containing transitional provisions, including a provision to the effect that the two-year periods prescribed by section 5A that limit the time within which the consent under section 5 or 7 of a person having an interest in land remains in force will, in relation to investigations that have already commenced, begin at the commencement of the proposed Act.

Schedule 2 Further amendments

This Schedule provides for the repeal of sections 5 (1) (b) and (4), 5A (2) and 7. The effect is that, on and from 1 January 2001, the only proposals for identification of land as wilderness that the Act will require to be investigated will originate in the National Parks and Wildlife Service.